

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

DENNIS SANDELL OTT,

Petitioner, Civ. S-99-0946 DFL GGH P

v. ORDER

ANTHONY NEWLAND, Warden,

Respondent.

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Petitioner's application for a writ of habeas corpus under 28 U.S.C. § 2254 was denied on February 4, 2004. The court denied his request for a certificate of appealability on June 14, 2004. On July 22, 2004, the Ninth Circuit Court of Appeals also denied his request for a certificate of appealability.

Petitioner filed a motion for relief from judgment under Fed.R.Civ.P. 60(b) on January 25, 2005, which the court denied on March 22, 2005. Petitioner now brings a request for a certificate of appealability to appeal the denial of his Rule 60(b) motion.

Under 28 U.S.C. § 2253, a certificate of appealability is warranted only if the case presents a "substantial question," i.e., one that is "'debatable among jurists of reason,'" could be resolved differently by a different court, or is "'adequate to deserve encouragement to proceed further.'" Jennings v. Woodford, 290 F.3d 1006, 1010 (9th Cir. 2002) (quoting Barefoot v. Estelle, 463 U.S. 880, 893 (1983)).

This case presents no such "substantial question" and the April 19, 2005 motion for certificate of appealability is DENIED.

10 IT IS SO ORDERED.

11 || Dated: 6/30/2005

(Dow.) F. (Levi